

EXHIBIT 1



Steve Weil <weil@loevy.com>

Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

1 message

Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov>
To: Steve Weil <weil@loevy.com>, Maria Makar <makar@loevy.com>
Cc: "Daniel, Marriam" <Marriam.Daniel@ilag.gov>

Thu, Apr 13, 2023 at 10:19 AM

Steve,

I don't work for the IDOC and I have not been updated as to "what the IDOC has been doing since February." I will continue to follow up with them as stated and will let you know as soon as they have identified the appropriate designees.

Best,

Elizabeth

Elizabeth J. Andonova Mallory
Assistant Attorney General
Office of the Illinois Attorney General
100 West Randolph Street, 13th Floor
Chicago, Illinois 60601
O: (312) 814-4355
C: (872) 272-0759

From: Steve Weil <weil@loevy.com>
Sent: Thursday, April 13, 2023 9:15 AM
To: Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov>; Maria Makar <makar@loevy.com>
Cc: Daniel, Marriam <Marriam.Daniel@ilag.gov>
Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Elizabeth, we will get back to you on the parole board question.

Regarding the other Rule 30(b)(6) topics, I have just forwarded you correspondence from Marrian saying that she had already reached out to the IDOC in February regarding those topics. I would expect that the IDOC has been able to identify and educate witnesses for those topics in the time that has elapsed. It sounds like you've been able to connect with Marrian so I would request you provide an answer as to what the IDOC has been doing since February. Can you please shed some light on the status of your client's response?

Best regards,

Steve

--
Stephen H. Weil
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On Wed, Apr 12, 2023 at 10:52 AM Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov> wrote:

Steve,

Marrian and I discussed Plaintiff amending the complaint; we believe it is too late at this point for that option and would object. I do not believe relation back would apply to adding the PRB as a defendant, but that's something we can discuss at greater length if Plaintiff decides to file a motion to amend.

Regarding the PRB, if Plaintiff still wants IDOC to designate someone to discuss the PRB topics, even though IDOC has no control over the PRB and is unable to designate anyone to testify as to those topics, we will have someone available to essentially state what I just did. That seems like a waste of time and resources for both sides to me, but the order on the MTC states that if IDOC lacks responsive information, the designee may respond to that extent. Please let me know what you'd like to do regarding the PRB witness.

Finally, as promised during our phone call, I followed up with IDOC regarding the other witnesses but none have been identified yet. I will update as soon as I have designees.

Best,

Elizabeth

Elizabeth J. Andonova Mallory

Assistant Attorney General

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100 West Randolph Street, 13th Floor

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From: Steve Weil <weil@loevy.com>
Sent: Wednesday, April 5, 2023 9:43 AM
To: Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov>

Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

--

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weil@loevy.com

On Wed, Mar 29, 2023 at 12:55 PM Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov> wrote:

That works. Talk to you next week.

Elizabeth J. Andonova Mallory

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From: Steve Weil <weil@loevy.com>

Sent: Wednesday, March 29, 2023 12:54 PM

To: Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov>

Cc: Daniel, Marriam <Marriam.Daniel@ilag.gov>; Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>

Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Sure. I have to step away at 9:50 but we should be able to make that work. How about we use this dial-in:

425-436-6326

577-308#

--

Stephen H. Weil

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weil@loevy.com

On Wed, Mar 29, 2023 at 12:51 PM Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov> wrote:

Monday isn't great for me – how about Wednesday, 4/5, at 9:30 a.m.?

Elizabeth J. Andonova Mallory

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From: Steve Weil <weil@loevy.com>
Sent: Wednesday, March 29, 2023 12:42 PM
To: Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov>
Cc: Daniel, Marriam <Marriam.Daniel@ilag.gov>; Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>
Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Hello Elizabeth, the rest of this week is extremely bad for me unfortunately, but I can talk Monday.

--

Stephen H. Weil

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weil@loevy.com

On Wed, Mar 29, 2023 at 11:46 AM Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov> wrote:

Hi Steve,

Please let me know when you have availability to talk about the parole board issue. I imagine it will be a pretty quick conversation as our position is simply that we cannot produce anyone on parole board topics because the parole board is completely separate from IDOC, so it's not possible for IDOC to provide a designee. We'd like to avoid unnecessarily briefing a motion about this but may have to do so depending on Plaintiff's position.

Thanks,

Elizabeth

Elizabeth J. Andonova Mallory

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From: Steve Weil <weil@loevy.com>
Sent: Friday, March 10, 2023 3:18 PM
To: Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov>
Cc: Daniel, Marriam <Marriam.Daniel@ilag.gov>; Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>
Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Elizabeth it sounds as though the AG's Office should not have assigned this case to you. Given the deadlines in this case, and the length of time we have been waiting for this discovery, we think the Court will agree. We are willing to offer three weeks to complete this discovery. If defendants insist on seeking more we cannot consent.

Best regards,

- Steve

--

Stephen H. Weil

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weil@loevy.com

On Fri, Mar 10, 2023 at 9:00 AM Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov> wrote:

Stephen,

Because I do not have time to get caught up on what this case is about and what the deposition topics involve, to prep the witnesses, and also to defend their depositions in the near future. I have a

full caseload of my own and am already booked through April, including for a trial in Urbana starting on April 25th.

Elizabeth

Elizabeth J. Andonova Mallory

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Government Representation Division

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E.AndonovaMallory@ilag.gov

From: Steve Weil <weil@loevy.com>

Sent: Friday, March 10, 2023 8:57 AM

To: Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov>

Cc: Daniel, Marriam <Marriam.Daniel@ilag.gov>; Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>

Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Elizabeth,

That is an exceptionally long extension. Can you please explain why such a long extension is necessary as to all the topics?

I'm happy to confer with you regarding the parole board issue, but we don't understand why testimony regarding the other order issues should be delayed.

I'm tied up until around 3:00 this afternoon, but am happy to talk after that.

--

Stephen H. Weil

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weil@loevy.com

On Thu, Mar 9, 2023 at 12:33 PM Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov> wrote:

Hi Steve,

We will need at least 65 days as I received this case only a couple of days ago and am very booked up through April. In hopes of avoiding additional METs in the future, I suggest May 31st as the deadline. Although Marrian's leave was pre-planned, she had to go on leave earlier than anticipated and was not able to fully brief anyone on this case.

Marrian was working with IDOC to identify witnesses prior to her leave and I have followed up regarding the same. IDOC is currently working on identifying witnesses for all of the topics that were granted in the MTC order, but we are likely going to have to motion for the court to reconsider the request for a designee regarding the parole board. The parole board is not at all connected to IDOC, so IDOC cannot designate anyone to cover those topics. If you want to discuss that issue rather than us briefing a motion, I'm happy to do so.

Best,

Elizabeth

Elizabeth J. Andonova Mallory

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From: Steve Weil <weil@loevy.com>
Sent: Thursday, March 9, 2023 12:26 PM
Cc: Daniel, Marriam <Marriam.Daniel@ilag.gov>; Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>; Andonova Mallory, Elizabeth <E.AndonovaMallory@ilag.gov>
Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Hello Ms. Mallory,

Following up on Nick Staley's email. Can you tell us how long you are requesting to present the Rule 30(b)(6) witness in this case?

Please note that in this email chain I address concerns raised by Marriam regarding the scope of the testimony.

Please advise. As I noted to Nick, our deadline to depose the witness is tomorrow, so we will need to move for an extension.

Best regards,

- Steve

--

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On Thu, Mar 9, 2023 at 11:52 AM Staley, Nicholas <Nicholas.Staley@ilag.gov> wrote:

Steve,

This case will be handled by AAG Andonova Mallory in Marrian's absence. She is copied here. If I could be removed from future correspondence that would be great. Thanks.

Best Regards,

Nicholas S. Staley
Unit Supervisor, Prisoner Litigation

From: Steve Weil <weil@loevy.com>
Sent: Thursday, March 9, 2023 11:46 AM
To: Daniel, Marriam <Marriam.Daniel@ilag.gov>; Staley, Nicholas <Nicholas.Staley@ilag.gov>
Cc: Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>
Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Nick,

Our deadline to take the Rule 30(b)(6) deposition in this case is tomorrow, so we are going to have to move for an extension promptly. Can I please get from you how long of an extension we'll need?

Thanks,

Steve

--

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On Tue, Mar 7, 2023 at 11:20 AM Steve Weil <weil@loevy.com> wrote:

Nick,

I sent the email below to Marriam Daniel and just got an OOO message that she is on maternity leave. We'd discussed her impending leave in February and understood that the AG's office had worked out substitute counsel to take up this case once she went on leave.

Can you tell me where that stands? As Marriam's email indicates, she was preparing two witnesses for Rule 30(b)(6) testimony and was investigating who else to present for a third.

We were prepared to take this discovery last fall, but defendants asked for a delay when Marriam was brought in to take over the case so that she could get caught up to speed. Given the planned nature of her departure we don't expect another lengthy delay will be necessary to complete the depositions.

Thanks,

- Steve

--

Stephen H. Weil

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weil@loevy.com

On Tue, Mar 7, 2023 at 11:14 AM Steve Weil <weil@loevy.com> wrote:

Hello Marriam,

Please let me know where you are at with the two witnesses you have identified. We would like to get dates for their depositions so that we can identify those dates in our extension motion.

Regarding the "board," I hope it's clear from the context that the complaint refers to the entity responsible for locating post-release housing for him. I'd note that Mr. Simmons has not sued the IDOC, but rather the State of Illinois. Thus if the board is technically separate from the IDOC, it will not matter for purposes of the suit or for providing a Rule 30(b)(6) witness.

--

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Fax: 312-243-5902

weil@loevy.com

On Wed, Feb 22, 2023 at 4:09 PM Daniel, Marriam <Marriam.Daniel@ilag.gov> wrote:

Ok, sounds good. IDOC has not given me the names of the representatives yet. I did just speak with IDOC counsel and she is working on who to identify with the attorney at Stateville. There should be one person from the healthcare unit and maybe another for the transportation issue.

As for the pre-parole board, IDOC does not have a pre-parole board. There is a prison review board, but it is a separate entity from IDOC. IDOC has no control over it and the prison review board has no control over IDOC. Can you tell me what you mean by the pre-parole board? Are you referring to the prison review board?

Let me know if you'd like to discuss. I also do not have any update on my replacement, but I discussed the timeline with IDOC and I should have a representative by the end of the week from the healthcare unit and the transportation issue. So we may be able to complete the deposition for those two issues before I go on leave.

Thanks,

Marrian

Marrian M. Daniel

Assistant Attorney General

Office of the Illinois Attorney General

General Law Bureau, Prisoner Litigation

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Marriam.Daniel@ilag.gov

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From: Steve Weil <weil@loevy.com>
Sent: Wednesday, February 22, 2023 12:22 PM
To: Daniel, Marriam <Marriam.Daniel@ilag.gov>
Cc: Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>
Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Thanks Marriam.

We should be able to get this done in one day. Have you identified any IDOC reps? If not, when do you expect to have them ID'd?

Do you have any word on replacement counsel?

--

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Fax: 312-243-5902
weil@loevy.com

On Wed, Feb 22, 2023 at 12:17 PM Daniel, Marriam <Marriam.Daniel@ilag.gov> wrote:

Hi Steve,

I'm still waiting for IDOC to let me know who the witnesses will be. Do you know how much time you would need for each topic? Just wanted to see if this is something we could schedule in one day.

Thanks,

Marrian

Marrian M. Daniel

Assistant Attorney General
Office of the Illinois Attorney General
General Law Bureau, Prisoner Litigation
100 W. Randolph St., 13th Floor
Chicago, Illinois 60601
Office: (312) 814-4752
Cell: (872) 272-0766
Marriam.Daniel@ilag.gov

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From: Steve Weil <weil@loevy.com>
Sent: Monday, February 20, 2023 3:15 PM
To: Daniel, Marriam <Marriam.Daniel@ilag.gov>
Cc: Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>
Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Hello Marriam,

I plan to check in with you on Wednesday regarding the status of the remaining depositions in this case. At that time I would request that we have a date certain by which the depositions can be completed, so that we can move forward with an MET.

Thanks and best regards,

- Steve

--

Stephen H. Weil

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On Wed, Feb 15, 2023 at 1:04 PM Daniel, Marriam <Marriam.Daniel@ilag.gov> wrote:

I understand your position. My supervisor is currently on trial, so I'd like to discuss with him next week before I draft an met.

In the meantime, I will work with IDOC to identify witnesses, so that atleast that will be done before I leave and then the only thing will be to schedule them, so that the new person doesn't have to take time to review the case and 30b6 topics.

Marriam M. Daniel

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Marriam.Daniel@ilag.gov

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From: Steve Weil <weil@loevy.com>

Sent: Wednesday, February 15, 2023 12:53 PM

To: Daniel, Marriam <Marriam.Daniel@ilag.gov>

Cc: Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>

Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Marriam we'd like to review any motion to see whether we can agree to it or not. We don't object to providing some time for IDOC to prepare a witness, and obviously we don't object to accommodating your maternity leave. My concern, from past experience with the AG's office, is that someone new will be assigned to the case and then demand an extensive period of workup time. We would object to such a transition, since the office can and should plan transition to cover your leave.

--

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On Wed, Feb 15, 2023 at 12:45 PM Daniel, Marriam <Marriam.Daniel@ilag.gov> wrote:

Thank you, I appreciate it. As of right now, I don't know who will take over the case. They will re-assign the case once I go on leave. I assume it will depend on what everyone's case load will be at the time I leave. I will be working up until I do go on leave.

I can file an met letting the court know of these circumstances to give us more time to schedule?

Marrian M. Daniel

Assistant Attorney General
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From: Steve Weil <weil@loevy.com>
Sent: Wednesday, February 15, 2023 11:53 AM
To: Daniel, Marriam <Marriam.Daniel@ilag.gov>
Cc: Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>
Subject: Re: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Thanks for this information Marriam and congratulations in advance.

Is someone being prepared to take over this case, since it sounds as though any depositions will go forward only after you go on leave?

--

Stephen H. Weil
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weil@loevy.com

On Wed, Feb 15, 2023 at 11:39 AM Daniel, Marriam <Marriam.Daniel@ilag.gov> wrote:

Hi Steve,

We may need to file an extension on the deadline. I've forwarded the court's order to IDOC and waiting to hear back as to who the representatives will be. I am assuming (IDOC hasn't told me) that there will be more than one representative since the topics are different from each other. So we will have to coordinate if it would be all in one day or different days.

Also, I anticipate beginning my maternity leave on 3/9, but I of course don't know what will happen. Somebody else will be assigned to the case. I'm happy to agree on a date with you while we wait for IDOC's availability, but just so you know, it might have to be rescheduled, since I only have a few weeks left.

Let me know what you'd like to do or if you want to discuss by phone.

Thanks,

Marrian

Marrian M. Daniel

Assistant Attorney General

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From: Steve Weil <weil@loevy.com>
Sent: Monday, February 13, 2023 9:24 AM
To: Daniel, Marriam <Marriam.Daniel@ilag.gov>
Cc: Maria Makar <makar@loevy.com>; Dana Ferraro <ferraro@loevy.com>
Subject: [EXTERNAL] Fwd: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

Hello Marriam,

As the Court's order notes, the IDOC's Rule 30(b)(6) deposition must be completed by 3/10. We're requesting that you please provide some deposition dates so that we can get started on scheduling.

As of now, the following dates are bad for Plaintiff:

- 2/23 - not desirable
- 2/24 - not desirable
- 3/2 - not possible
- 3/3 - not possible

Thanks,

- Steve

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From: <usdc_ecf_ilnd@ilnd.uscourts.gov>

Date: Mon, Feb 6, 2023 at 4:44 PM

Subject: Activity in Case 1:18-cv-08186 Simmons v. State Of Illinois et al order on motion to compel

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United States District Court

Northern District of Illinois - CM/ECF NextGen 1.6.3

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Case Name: Simmons v. State Of Illinois et al

Case Number: 1:18-cv-08186

Filer:

Document Number: 127

Docket Text:

MINUTE entry before the Honorable Young B. Kim: Plaintiff's motion to compel [120] is granted in part and denied in part. Enter Order. Parties are to complete Defendant IDOC's Rule 30(b)(6) deposition--the only fact discovery left remaining---by March 10, 2023. Parties are to then file a joint status report by March 17, 2023, advising the court whether they require expert discovery in this case. Mailed notice (ec)

1:18-cv-08186 Notice has been electronically mailed to:

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Joseph Jack Lombardo jlombardo@cassiday.com

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